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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 8th Day of June 1998

BEFORE

THE HON'BLE MR. JUSTICE CHANDRASHEKARAIHAH

WRIT PETITION NO.14173/1994

Between;

M/S.S.K.N.Charitable Trust (R),
"Sreeranga", I Main Road,
Sharavathi East,
Shimoga P.O.
Shimoga District,
by its Chairman.

...PETITIONER

(By Sri.H.Neelakanta Rao, Adv.)

And;

1. Shimoga Urban Development
Authority, Vinobagagar,
Shimoga P.O. and District,
by its Commissioner.
2. Basaveswara Veerashaiva Samaja,
Seva Sangha, Gandhibazar,
Shimoga.
3. Dr.Ambedkar Gramadyoga
Sahakara Sangaha,
Basattikoppa, Shimoga Taluk,
Shimoga District.
4. Proudha Shala Mukhyopadyayara
and Padavipoorva College
Mukyasthara Sangha,
Kasturaba Girls Pre-University
College Shimoga.

...RESPONDENTS

(By Sri.Tajuddin, Adv. for R-1,
Sri.B.Rudragowda, Adv. for R-2) & C)

to allot the Civic Amenities site reserved for Hospital and Samudaya Bhavana in favour of the 2nd & 3rd respondent for the purpose of establishment of an educational institution which is a different purpose altogether. This fact is stated in the very resolution under which the Civic Amenities site has been allotted in favour of the respondents 2 and 3.

2. The learned Counsel for the 1st respondent has not ~~denied~~ ^{implied} this fact in the statement of objections filed before this Court.

3. When once a Civic Amenities site has been reserved for a particular purpose, it shall be ^{implied} ~~implied~~ only for that purpose. In the case on hand, the Civic Amenities site that has been allotted to the 2nd respondent is reserved for construction of Hospital and Samudaya Bhavana. But the 1st respondent has allotted the said site altogether for a different purpose for construction

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of an education institution which in my opinion is illegal.

4. The petitioner next contended that the respondent No.4 even though has not made any application seeking for an allotment, the 1st respondent has allotted the site in Alkola reserved for Samudaya Bhavana. In support of this, the petitioner has produced a copy of the statement issued by the 1st respondent wherein it is seen that the 4th respondent has not made any application seeking for allotment. The 1st respondent in his statement of objection has stated that the respondents 2, 3 and 4 have made applications seeking for allotment of Civic Amenities sites in para 4 of the statement of objection. In support of this, the respondent No.1 has not produced a copy of the application filed by 4th respondent. In the absence of such proof, it is not possible to accept the statement.

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made by the 1st respondent. Therefore, I proceed
to ^{hold} ~~state~~ that the 1st respondent has allotted the

Civic Amenities site in favour of respondent No.4
^{even though there is no}
~~without being any~~ application seeking for allotment.

Therefore, this allotment is also illegal. In the
result, I pass the following order;

Writ Petition is allowed. The allotment of
the Civic Amenities site made in ~~favour~~ of the
respondents 2 to 4 are quashed. The 1st respondent
is directed to dispose of the Civic Amenities site
in accordance with the ~~Civil~~ Rules, after due
publication.

Sd/-
JUDGE



sps/-